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August 7, 2000

VIA AIRBORNE EXPRESS

Ms. Magalie Roman Salas, Secretary
Federal Communications Commission
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Washington, DC 20554

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**Re: In the Matter of the New Jersey Board of
Public Utilities Petition for Delegated
Authority to Implement Number of
Conservation Measures, CC Docket No.
96-98, File No. NSD-L-00-95 - Comments
of Nextel Communications, Inc.**

Dear Secretary Salas:

Enclosed is an original and four (4) copies of the Comments of Nextel Communications, Inc. for filing in the above referenced proceeding. I have also sent two (2) copies via Airborne Express to Mr. Al McCloud at the Network Services Division.

Very truly yours,


Nathan T. Foose

NTF/rmc
Enclosures

cc: Larry Krevor
Laura Holloway
Patsy McSweeney
Al McCloud
ITS
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No. of Copies rec'd 0+4
List ABCDE

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

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In the Matter of)	
)	
The New Jersey Board of Public Utilities)	CC Docket No. 96-98
Petition for Delegated Authority to)	
Implement Number Conservation Measures)	File No. NSD-L-00-95

COMMENTS OF NEXTEL COMMUNICATIONS, INC.

I. Introduction and Summary

Pursuant to the Public Notice of the Federal Communications Commission (“Commission”)¹, Nextel Communications, Inc. (“Nextel”) respectfully submits these Comments concerning the request of the New Jersey Board of Public Utilities (“BPU”) for delegated authority to implement conservation measures.² Specifically, the BPU Request seeks authority to: 1) implement mandatory thousands-block number pooling trial; 2) ration NXX codes for six months following area code relief; and 3) implement all other conservation measures approved by the March 31, 2000 *Numbering Resource Optimization Order*³. The BPU has before it two petitions for area code relief, one for the 201/973 NPAs that has been pending almost two years and a second petition for relief for the 908/732 NPAs that has been pending for eighteen (18)

¹ Common Carrier Bureau Seeks Comment on the New Jersey Board of Public Utilities Petition for Delegated Authority to Implement Number Conservation Measures, DA 00-1508, released July 7, 2000.

² *In the Matter of the New Jersey Board of Public Utilities Petition for Delegated Authority to Implement Conservation Measures*, CC Dkt. No. 96-98, File No. NSD-L-00-95, filed June 9, 2000 (“BPU Request”).

³ *In the Matter of Numbering Resource Optimization*, Report and Order and Further Notice of Proposed Rule Making, FCC 00-104, CC Dkt. No. 99-200, released March 31, 200 (“NRO Order”).

months. In light of the inaction of the BPU to order area code relief and the status of exhaust in these NPAs, Nextel urges the Commission to condition the granting of any delegated authority upon the BPU first ordering area code relief in NPAs 201, 973 and 732 by October 1, 2000 with complete implementation (i.e. new NXXs available and in use) seven months from the date of its order, and set another reasonable deadline to address NPA 908.

II. Background

On July 13, 1998, the New Jersey telecommunications industry members met to develop a relief plan for the 201/973 NPAs. Although the industry could not reach consensus on whether to implement a geographic split versus an overlay, the industry did reach consensus on one overlay proposal and one geographic split proposal. These proposals were submitted to the BPU on August 24, 1998. On December 16, 1998 the industry met again to develop a relief plan for the 908/732 NPAs. This time the industry did reach a consensus on a single overlay plan.

By letter dated July 6, 1999, the Director of the Telecommunications Division of the BPU requested that NANPA reconvene an industry meeting for the purpose of attempting to reach consensus on one type of relief proposal for all four northern New Jersey NPAs. Pursuant to this request, the industry met on August 4, 1999 to discuss the relief proposals. As mentioned above, the industry had already reached consensus on a single relief proposal for the 908/732 NPAs. The industry therefore took up the competing relief proposals (geographic split and overlay) which were previously submitted to the BPU for the 201/973 NPAs. The industry ultimately reached consensus on a single overlay proposal for these NPAs.

The BPU issued a Decision and Order⁴ addressing certain procedural aspects of the

⁴ The two petitions were consolidated into one proceeding. See NJ BPU Dkt. Nos. TO98080707 and TO99010034, Decision and Order (November 18, 1999).

overlay proposal for the four northern New Jersey area codes on November 18, 1999. The Decision ordered that public hearings be held for the purpose of allowing the public to comment on the overlay proposal and invited comments regarding inclusion of number conservation methods in the proceeding. These hearings were held on December 8th and 9th of 1999. These are the only actions taken by the BPU to date on the relief petitions pending before it.⁵

Of the four NPAs, two are at risk of imminent exhaust. 732 is scheduled to exhaust in the 4th quarter of this year. 973 is due to exhaust in the 1st quarter of 2001. Rationing is in place for these NPAs at a rate of four (4) codes per month. As a result of rationing, current code allocations in 732 are not assigned until November 2000 while codes allocated in 973 are not assigned until December 2000. As far as the other NPAs are concerned, NPA 201 is currently scheduled to exhaust in the 1st quarter of 2002 and is subject to rationing at the rate of six (6) codes per month. 908 has an exhaust date of the 4th quarter of 2002 and is not subject to rationing at this time.

In addition, three of the four NPAs have been declared to be in jeopardy. As far back as September 21, 1998, NPAs 973 and 732 were declared in jeopardy. On February 5, 1999, 201 was declared in jeopardy. Nevertheless, the BPU has issued no Decision for area code relief. The New Jersey telecommunications industry, and ultimately telecommunications consumers in New Jersey, are at risk of not having an adequate supply of numbering resources. Area code relief is needed immediately.

⁵ On March 24, 2000, the BPU Staff did request data from telecommunications carriers concerning number utilization. No further action was taken by the BPU.

III. Discussion

As set forth above, petitions for area code relief have been pending at the BPU, in one instance (201/973) for almost two years and in the other (908/732) for eighteen months, with no definitive action taken by the Board. NPA 732 is due to exhaust by the 4th quarter of this year with 973 exhausting the 1st quarter of next year. As a result, telecommunications carriers cannot access adequate numbering resources under these circumstances. Even if area code relief were ordered now, it most likely would come too late to prevent the total exhaust of these NPAs. Also of concern is the fact that any area code relief Decision by the BPU may be subject to motions for reconsideration and other procedural challenges which may further delay implementation. Given these circumstances, Nextel urges the Commission to condition any grant of delegated authority upon the BPU ordering area code relief by October 1, 2000 with complete implementation by seven months from the date of its order.

This Commission has explicitly held that it is the duty of state commissions to order area code relief when an NPA is declared in jeopardy.⁶ The Commission further defined that duty with respect to number pooling as follows:

. . . to ensure that consumers are never foreclosed from exercising their choice of carrier because that carrier does not have access to numbering resources, state commissions must take all necessary steps to prepare an NPA relief plan when it seeks to implement a pooling trial in an NPA which is in jeopardy.⁷

Moreover with respect to number pooling which the BPU requests, the Commission has stated

⁶ *In the Matter of Petition for Declaratory Ruling and Request for Expedited Action on the July 15, 1997 Order of the Pennsylvania Public Utility Commission Regarding Area Codes 412, 610, 215 and 717*, FCC 98-224, CC Docket No. 96-98, NSD File No. L-97-42, released September 28, 1998 at ¶ 38 (“*Pennsylvania Order*”).

⁷ *NRO Order* at ¶171.

that,

Number pooling is not a substitute for area code relief because, at this time, it does not provide sufficient assurance that all telecommunications carriers will have access to numbering resources.⁸ (emphasis added)

The BPU requests authority to implement thousand-block number pooling but makes no commitment to implementing area code relief. In addition, the BPU fails to explain how pooling will forestall the need for area code relief when 973 and 732 are in imminent risk of exhaust. Additionally, since area code relief implementation can take many months⁹ and 201 is in jeopardy and scheduled for exhaust in the 1st quarter of 2002, area code relief should be commenced in that NPA as well, before pooling can be implemented. Furthermore, given the dire circumstances in these NPAs, the BPU fails to explain what numbering resources are available to populate the numbering pool given the jeopardy and imminent exhaust situation. By requesting delegated authority prior to implementing area code relief in these NPAs, the BPU has not only ignored the Commission's Orders, but has put the cart before the horse. There are simply not enough numbering resources available for number pooling to insure that carriers will have the numbering resources they need to serve the telecommunications consumers of New Jersey.

The Commission's Orders require that an NPA have a remaining life span of at least one year before number pooling is implemented.¹⁰ This is so because number pooling becomes less

⁸ *Pennsylvania Order* at ¶29.

⁹ See, Number Resource Optimization Working Group, *Modified Report to the North American Numbering Council on Number Optimization Methods*, October 20, 1998 at §§ 12.1.3 and 14.3.

¹⁰ *NRO Order* at ¶170.

effective and the costs outweigh the benefits if pooling is attempted shortly before exhaust.¹¹

This requirement removes 732 and 973 from any pooling trial in the first instance. 201 is in jeopardy and not far from its exhaust date, the 1st quarter 2002.

More importantly, the BPU fails to explain what numbering resources will be available to wireless carriers since such carriers have not implemented local number portability (“LNP”) and are not required to implement LNP until November 24, 2002.¹² Wireless carriers will still require numbering resources in full NXXs and, in at least two of these NPAs, there is a real risk that none will be available in the near future. This, in effect, discriminates against non-LNP capable carriers in violation of the Commission’s Orders.¹³

The Commission has recognized that number pooling is not a substitute for area code relief because not all carriers (such as wireless) have access to the numbering pool.¹⁴ The only means to alleviate this set of circumstances is to insure that area code relief is implemented in these four NPAs prior to the commencement of either number pooling or other conservation methods. Accordingly, the Commission should require the BPU to implement area code relief as a condition of any grant of delegated authority.

IV. Conclusion

For the reasons set forth above, the Commission should require the New Jersey BPU to order area code relief in the 201, 973 and 732 NPAs by October 1, 2000 with full implementation

¹¹ *NRO Order* at ¶162.

¹² See, *In the Matter of Cellular Telecommunications Industry Association’s Petition for Forbearance From Commercial Mobile Radio Services Number Portability Obligations and Telephone Number Portability*, FCC 99-19, WT Dkt. No. 98-229, CC Dkt. No. 95-116, Memorandum Opinion and Order, released February 9, 1999.

¹³ *NRO Order* at ¶135, see also 47 C.F.R. §52.9.

¹⁴ *Id.*

(i.e. new NPA NXXs available for use) commencing no later than seven months from the date of its order as a prerequisite to the grant of any delegated authority requested by the BPU. The FCC should also impose a reasonable deadline for area code relief in NPA 908.

Respectfully submitted,

Date: August 7, 2000

A handwritten signature in cursive script, reading "Nathan T. Foose". The signature is written in dark ink and is positioned above a horizontal line.

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**Before the
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In the matter of :)	
)	CC Docket No. 96-98
The New Jersey Board of Public Utilities)	
Petition for Delegate Authority to)	File No. NSD-L-00-95
Implement Number Conservation Measures)	

CERTIFICATION OF SERVICE

I hereby certify that I have this day served the foregoing comments of Nextel Communications, Inc. upon the persons appearing on the attached service list by first class mail or by Airborne Express Overnight Delivery to the persons marked by asterisk.

Date: August 7, 2000



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